

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH MUMBAI

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 4364/MUM/2025
Assessment Year: 2019-20**

Lintas Employees Health Assistance Trust 13th Floor, Express Towers Nariman Point, Mumbai – 400021 (PAN: AAATL0325M) (Appellant)	Vs.	Income-tax Officer, Ward – 25(2)(1), Mumbai (Respondent)
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Present for:

Assessee : Shri Prakash Jotwani
and Ms Priya Gada, Advocates

Revenue : Shri Surendra Mohan, Sr. DR

Date of Hearing : 14.08.2025
Date of Pronouncement : 25.09.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by assessee is against the order of AddL/JCIT (A)-1, Hyderabad vide order no. ITBA/APL/S/250/2024-25/1074797264(1), dated 21.03.2025 passed against the intimation issued by the Central Processing Centre of the Department, Bengaluru (CPC) u/s. 143(1) of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 12.05.2020 for Assessment Year 2019-20.

2. Grounds taken by the assessee are reproduced as under:

GROUND NO. 1: ERRED IN NOT CONDONING DELAY IN FILING THE APPEAL

The Id. CIT(A) erred in dismissing the appeal without considering the merits of the case, and erred in not condoning the delay of 964 days in filing the appeal

dated 04-02-2023 and failed to take into consideration the reasons provided for the delay in filing the appeal. The reasons assigned for rejection or refusing the condonation of delay, are unjustified and contrary to the principles of natural justice.

GROUND NO. 2: ADDITION IN AN INTIMATION ORDER U/S. 143(1)

1. The ld. AO/CPC in its Intimation Order u/s. 143(1), without assigning any reasons, erred in assessing the income at Rs. 69,86,790/- as against Rs. 5,26,300/ as per Return of Income, which resulted in an addition of Rs. 64,60,490/-.

2. The ld. AO/CPC in its Intimation Order u/s. 143(1) (without giving any Show Cause Notice), erred in computing the Business Income at Rs. 58,23,597/- as against Rs. NIL /-, that is declared in the Return of Income, without providing any valid justifications and basis and application of mind, which has resulted in a tax demand of Rs. 21,65,140/-.

3. The ld. AO/CPC in its Intimation Order u/s. 143(1) (without assigning any reasons erred in taxing the following income, under the head Business Income'

- Dividend from Mutual Funds - Rs. 16,36,856/- (Exempt from tax)*
- Interest from Tax Free Bonds- Rs. 1,23,089/- (Exempt from tax)*
- Long Term Capital Gains - Rs. 40,63,652/- (Book Profit)*

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Total Rs. 58,23,597/-
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4. The ld. CIT(A) failed to take into consideration that the AO/CPC does not have any jurisdiction to make an adjustment in an Intimation Order u/s143(1), and that the same should have been a matter of scrutiny proceedings and therefore clearly it is a mistake apparent on record.

GROUND NO. 3: DIVIDEND INCOME of Rs. 16,36,856/-

The ld. CIT(A) failed to take into consideration that the Dividend income from Mutual Funds is exempt from tax u/s. 10(35) and therefore cannot be treated as taxable income under the head 'Profits and Gains of Business/Profession'.

GROUND NO. 4: INTEREST FROM TAX FREE BONDS - RS. 1,23,089/-

The ld. CIT(A) failed to take into consideration that the Interest from Tax Free Bonds is exempt from tax u/s. 10(15) and therefore cannot be treated as taxable income under the head 'Profits and Gains of Business/Profession'.

GROUND NO. 5: LONG TERM CAPITAL LOSS of Rs. RS. 40,63,652/-

The ld. CIT(A) failed to take into consideration that the Assessee has incurred Long Term Capital Loss of Rs. (10,90,541/-), on redemption of Mutual Funds

which has been disclosed in the Return of Income under the head Capital Gains and instead the AO/CPC has wrongly treated the books profit of Rs. 40,63,652/ earned on such redemption under the head Profits and Gains of Business/Profession'.

3. At the outset, we take note of delay of 32 days in filing the present appeal by the assessee before the Tribunal for which an affidavit along with petition for condonation of delay is placed on record. From the perusal of the affidavit dated 09.07.2025, we note that there were certain medical issues with the person who was responsible for taking care of the compliances in respect of filing of appeal at the office of the Tax Professional. Mrs. Surekha Shirke working with the Tax Professional for past 35 years was responsible for maintaining the records for hearing of matters relating to income tax appeals. She underwent certain medical issues during the time, when the due date for filing of the present appeal fell. Also, there was a fire which broke out in the office of the chartered accountant on 23.06.2025 because of which the office remained closed for several days and the person responsible for meeting the compliance could not lay hands on the documents. As soon as the office resumed its operations, necessary steps were taken and the present appeal was filed on 02.07.2025 with a delay of 32 days.

3.1. We have considered the submissions made by the assessee for condoning the delay which are found to be bonafide and justified. Accordingly, considering the submissions so made, we find it appropriate to condone the delay of 32 days and take up the matter for adjudication.

4. Assessee had filed its return on 15.07.2019 reporting total income at Rs. 5,26,333/-. The return was processed by CPC u/s. 143(1),

whereby it computed the business income at Rs.58,23,597/- as against nil reported by the assessee, resulting into tax demand of Rs. 21,65,140/-. According to the assessee, CPC had processed the return by treating the following income under the head business income:

- i. dividend from mutual funds - Rs.16,36,856/-.
- ii. interest from tax-free bonds - Rs. 1,23,089/-.
- iii. long-term capital gains - Rs. 40,63,652/-

Thus, totalling to Rs.58,23,597/-. Out of these incomes, claim of the assessee is that income from dividend on mutual funds and interest from tax-free bonds are exempt income and has been wrongly added under the head business income.

4.1. Assessee moved an appeal before the ld. CIT(A) with a petition for condonation of delay of 968 days while filing the first appeal. Ld. CIT(A) took note of the affidavit explained the sufficient cause for the delay of 968 in filing the first appeal before him. However, not satisfied with the submission so made, he dismissed the appeal of the assessee on the ground of delay, by rejecting the petition filed for condonation of the said delay. He did not adjudicate the appeal on merits.

5. Before us, assessee has vide ground No.1, contested that ld. CIT(A) has erred in dismissing the appeal without considering the merits of the case and not condoning the delay of 968 days in filing the first appeal. In this respect, it is important to note that the intimation u/s. 143(1) was issued on 12.05.2020 which is the period when the pandemic of COVID-19 was in vogue. In order to cover the period of pandemic of COVID-19, Hon'ble Supreme Court in *suo moto* case in Writ Petition No. 3 of 2020 and others, dated 10.01.2022, had directed to exclude the period from 15.03.2020 to 28.02.2022 for the purpose of computing the

period of limitation for filing of appeals, revisions etc. It had also allowed further period of 90 days up to 30.05.2022 for considering the compliance in respect of filing of appeal etc. Thus, when this period as directed by Hon'ble Supreme Court is excluded, the delay of 968 gets reduced to 251 days.

5.1. In the course of hearing before us, it was submitted that assessee has as many as 12 trusts for welfare of its employees and in all the cases pertaining to Assessment Year 2019-20 and 2020-21, intimations issued in case of all the trusts u/s.143(1) were during the same dates in the month of May of 2020 when the COVID pandemic was in vogue. In another case of the group of the assessee, i.e. in the case of Lintas Employees Hobbies and Craft Trust in ITA No. 1801 and 1802/Mum/2025, order dated 23.05.2025, issue of condonation of delay before the Id. CIT(A) had come up on identical fact pattern before the Coordinate Bench, wherein there was a delay of 979 days. The Coordinate Bench dealt with the facts of the case which are similar to the present case before us and took note of the affidavit filed by one of the trustees namely Mr. Shahrook Munsiff, details of which were extracted in the order of Id. CIT(A). The same are reproduced for ready reference.

"I MR. SHAHROOK MUNSIFF, (Trustee of LINTAS EMPLOYERS HEALTH ASSISTANCE TRUST), aged 72 years, having its registered address at Unit Ne 313, 3 Floor, Prabhadesi Industrial Estate, 408, Veer Savarkar Marg. Mumbai 400 025, do hereby solemnly affirm and state as under

1. I say that I am the Trustee of LINTAS EMPLOYEES HEALTH ASSISTANCE TRUST (hereinafter referred to as "the Assessee Trust")

2. I say that MR. DINESH KAURA, aged 74 years, is the Administrator, and is in charge of the accounts and finance of the Assessee Trust. The Assessee Trust has been regularly filing the Income Tax Returns and looking after all the tax Litigation matters of the Assessee Trust

3. For the AY. 2019-20, the Assessee Trust was in receipt of Intimation Order u/s. 143(1). which was passed on 12-05-2020

4. Mr. Dinesh Kabra was having serious health issues due to Covid along with pneumonia and was quite unwell. Due to the Covid Pandemic, he was attending to matters of the Assessee Trust only once a week and on urgent matters only. He was advised by the Doctors to take rest due to his ill health.

5 I say that I was unaware of the Intimation us. 143(1) being passed. When it was brought to my notice, I saw that there was a demand raised in the Intimation u/s 143(1), against which we made several efforts to file rectification application u/s. 154 either online on the portal or in physical mode.

6. On 14-05-2020, an employee working from the accounts team of the Assessee Trust (who was working from home during the covid LockDown), filed an online response to the outstanding demand, on the Income Tax Portal and intimated about the mistake apparent on record of the Intimation u/s 143(1), However, till date no response has been received from the Income Tax Department on this issue.

7. However, since the Income Tax portal was completely upgraded and revamped was under construction for a long time, it seems that there was not and there is no tab to file rectification application u/s. 154. This caused immense delay in filing the appeal

8. Accordingly, I contacted my lawyers who suggested that despite merely being a mistake apparent on record which is clerical in nature, an appeal should be filed in order to get justice and equity.

9. Accordingly, an appeal has been find against the Intimation Order u/s 143(1), with a delay of 964 days (approximately).

10. Due to the ongoing pandemic scenario prevalent in India, the Assessee was unable to file the appeal within time limits prescribed.

11. However, since the Income tax website was under revamp/ construction, the appeal could not be filed on time due to various technical problems. Till date there are problems on the Income Tax portal.

12. I humbly request you to kindly condone this delay and not treat the Assessee as a person in default and grant the opportunity to be heard on merits,

13. The delay is on account of the non-functional income tax website and the inability to file the appeal and the covid pandemic. The office was closed between April 2020 to June 2020 due to lock down like conditions and thereafter it was operational on an irregular basis and only to attend to very urgent work. Staff were advised to work from home.

14. I do hereby declare that whatever stated herein above is true and correct to the best of my knowledge, belief and information and thus, I have signed this affidavit as indicated below.”

5.2. The contents of the above extracted affidavit are similar to the one dealt by the Coordinate Bench in the decision of another sister trust referred above. Considering the factual position and the details furnished, the delay before the Id. CIT(A) was condoned and the matter was taken up for adjudication on merits. The observations and findings of the Coordinate Bench on this aspect are extracted below for ready reference.

“4. The Assessee, being aggrieved, challenged the said additions before the Ld. Addl./Joint Commissioner by filing first appeal, however, with the delay of 979 days in filing of the same. As observed above, the CPC/AO has passed the order/intimation on dated 01.05.2020 and that time Covid period has already been started and therefore considering the peculiar facts and circumstances the Hon'ble Apex Court, in suo-moto case in writ petition No.3 of 2020 & ors. decided on January 10, 2022, exempted the period from 15.03.2020 till 28.02.2022 and therefore, if we exclude the excluded period for filling of appeal, revision etc. as directed by the Hon'ble Apex Court and filing of appeal on dated 04.02.2023, the exact delay would come to 341 days.

4.1 Admittedly, the Assessee has as many as 12 trusts for welfare of its employees and in all the cases pertaining to A.Y. 2019-20 & 2020-21 to all the trusts the assessment/intimation orders were passed u/s 143(1) of the Act on dated 01.05.2020. And therefore the Assessee has claimed, as the time when the intimation/order was passed by the CPC on dated 01.05.2020, Covid period was going on and therefore only one manager namely Mr. Dinesh Kabra was available in office and the office for staff was closed entirely and thus such manager could not see the mails that arrived from the Department. However, once Mr. Kabra resumed office after a long time, he was able to see the mails about receipt of orders and consequently all appeals of 12 trusts were filed at a time around February 2023 before the CIT(A), along with condonation of delay varied from case to case. In all other cases, the Ld. CIT(A) has allowed the condonation of delay except in the instant case.”

5.3. Since the factual matrix of the present case before us are similar to the one dealt by the Coordinate Bench in the case of sister trust (supra), by considering the decision of the Coordinate Bench, we condone the delay in the present case for filing of appeal before the Id. CIT(A). Further, Id. CIT(A) has not dealt with the merits of the case and has dismissed the appeal only on account of delay in filing the appeal.

Accordingly, in the given set of facts, by condoning the delay in filing the first appeal before Id. CIT(A), we remit the matter back to the file of Id. CIT(A) for meritorious adjudication of the grounds raised by the assessee at the first appellate stage by passing a speaking order.

5.4. Needless to say, assessee be given reasonable opportunity of being heard and to make all the relevant submissions as required to substantiate the claim made by it. Accordingly, ground No. 1 raised by the assessee in the present appeal is allowed.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 25 September, 2025

Sd/-
(Saktijit Dey)
Vice President

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 25 September, 2025

MP, Sr.P.S.

Copy to:

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt. Registrar)